

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MICHAEL DAVID LAMBERT
4735 Sepulveda Blvd Apt 410
Sherman Oaks, CA 91403

Registered Nurse License No. **564343**

Respondent

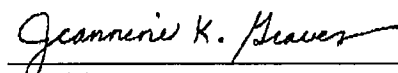
Case No. 2011-561

DECISION AND ORDER

The attached Stipulated Settlement for Public Reprimand is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **May 24, 2011.**

IT IS SO ORDERED **May 24, 2011.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
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Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2011-561

11 **MICHAEL DAVID LAMBERT**
12 **4735 Sepulveda Blvd. Apt. 410**
13 **Sherman Oaks, CA 91403**
Registered Nurse License No. 564343

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Respondent.

15 In the interest of a prompt and speedy settlement of this matter, consistent with the public
16 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
17 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
18 which will be submitted to the Board for approval and adoption as the final disposition of the
19 Accusation.

20 PARTIES

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board
22 of Registered Nursing. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Randy M.
24 Mailman, Deputy Attorney General.

25 2. Michael David Lambert ("Respondent") is representing himself in this proceeding
26 and has chosen not to exercise his right to be represented by counsel.
27
28

3. On or about February 29, 2000, the Board of Registered Nursing issued Registered Nurse License No. 564343 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-561 and will expire on August 31, 2011, unless renewed.

JURISDICTION

4. Accusation No. 2011-561 was filed before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 22, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2011-561 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2011-561. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2011-561.

9. Respondent agrees that his Registered Nurse License is subject to discipline and he agrees to be bound by the Board's terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 564343 heretofore issued to Respondent Michael David Lambert shall, by way of letter from the Complainant, be publicly reprimanded. Said letter of public reprimand will issue as set forth herein above and shall be in the same form as the letter attached hereto as Exhibit "B."

Exhibit A

Accusation No. 2011-561

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RANDY M. MAILMAN
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2011-561*

13 **MICHAEL DAVID LAMBERT**
4735 Sepulveda Blvd., Apt. 410
Sherman Oaks, CA 91403
Registered Nurse License No. 564343

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about February 29, 2000, the Board of Registered Nursing issued Registered
22 Nurse License Number 564343 to Michael David Lambert ("Respondent"). The Registered
23 Nurse License was in full force and effect at all times relevant to the charges brought herein and
24 will expire on August 31, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"), under
27 the authority of the following laws. All section references are to the Business and Professions
28 Code ("Code") unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 490 provides:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2761 provides, in pertinent part:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.”

7. Section 2762 of the Code provides, in pertinent part,

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

• • •

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

8. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1444, provides:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

Such convictions or acts shall include but not be limited to the following:

- (a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
- (b) Failure to comply with any mandatory reporting requirements.
- (c) Theft, dishonesty, fraud, or deceit.
- (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.”

COST RECOVERY

9. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of Substantially-Related Crimes)**

5 10. Respondent is subject to disciplinary action under section 2761, subdivision (f) and
6 section 490 of the Code, as defined in California Code of Regulations, title 16, section 1444, in
7 that on or about May 5, 2010 after pleading no contest, Respondent was convicted of one
8 misdemeanor count of violating Penal Code section 602.5 (aggravated trespass) in the criminal
9 matter entitled *The People of the State of California v. Michael David Lambert* (Super. Ct. Los
10 Angeles County, 2010, No. 0PY00797). Respondent was placed on probation for three years.
11 Respondent was ordered to serve one day in the Los Angeles County Jail, attend a fifty-two week
12 domestic violence program, and pay fines. The basis for the conviction is that on or about
13 February 3, 2010, after spending the day consuming alcohol, Respondent physically assaulted his
14 girlfriend. As a result of the assault, Respondent's girlfriend sustained a bruise and swelling
15 under her right eye, a swollen bloody lower lip, a bruise on the left cheek, and redness and
16 tenderness to the back of her left upper arm.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Dangerous Use of Alcohol)**

19 11. Respondent is subject to disciplinary action under section 2762, subdivision (b) of the
20 Code, in that Respondent used alcohol to an extent or in a manner dangerous or injurious to
21 himself, and the public. Complainant refers to, and by this reference incorporates, the allegations
22 set forth above in paragraph 10, as though set forth fully.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct)**

25 12. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the
26 Code, for unprofessional conduct in that Respondent physically assaulted a cohabitant.
27 Complainant refers to, and by this reference incorporates, the allegations set forth above in
28 paragraph 10, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 564343, issued to Michael David Lambert;

2. Ordering Michael David Lambert to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: _____

12/22/10

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN

Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit B

Letter of Public Reprimand



May 24, 2011

Michael David Lambert
4735 Sepulveda Blvd Apt 410
Sherman Oaks, CA 91403

RE: LETTER OF PUBLIC REPRIMAND
In the Matter of the Accusation Against:
MICHAEL DAVID LAMBERT
Board of Registered Nursing Case No. 2011-561

Dear Mr. Lambert:

On December 22, 2010, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed Accusation No. 2011-561 against your license to practice registered nursing, alleging that you were convicted of a substantially related crime, in violation of Business and Professions Code sections 2761, subdivision (f) and 490, and California Code of Regulations, title 16, section 1444, that you used alcohol in a dangerous manner, in violation of Business and Professions Code section 2762, subdivision (b), and that you engaged in unprofessional conduct, in violation of Business and Professions Code section 2761, subdivision (a).

The basis for the Accusation is that on or about May 5, 2010, after pleading no contest, you were convicted of one misdemeanor count of violating Penal Code section 602.5 (aggravated trespass) in the criminal matter entitled, The People of the State of California v. Michael David Lambert (Super. Ct. Los Angeles County, 2010, No. 0PY00797). You were placed on probation for three years, ordered to serve one day in the Los Angeles County Jail, ordered to attend a fifty-two week domestic violence program, and ordered to pay fines. The circumstances surrounding the conviction are that on or about February 3, 2010, after consuming alcohol, you got into a physical altercation with your girlfriend that resulted in her sustaining physical injuries.

However, you have been licensed by the California Board of Registered Nursing since 2002 without any prior disciplinary action or subsequent incident. You are currently enrolled in a domestic violence program where you have received a commendation for personal growth. You are gainfully employed as a Clinical Nurse II at the Cardiothoracic Intensive Care Unit of the University of California, Los Angeles Medical Center where you have received exceptional employment evaluations, and you enjoy a reputation as a good, diligent, and honest nurse.

Taking into consideration the above factors in mitigation, the California Board of Registered Nursing has decided that the charges in this case warrant a Public Reprimand. Accordingly, pursuant to the authority provided under Business and Professions Code section 495, the California Board of Registered Nursing hereby issues this letter of Public Reprimand.

Sincerely,

Louise R. Bailey M.Ed., RN

LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

cc: Randy Mailman, Deputy Attorney General